

Message Text

PAGE 01 STATE 196219
ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 /026 R

DRAFTED BY EA/J:RNKILPATRICK,ACTING
APPROVED BY EA - MR SULLIVAN
P - JOHN FORBES
D/LOS - R. BLUMBERG
S/S-SGOLDSMITH
- -

-----085090 032203Z /75

P 032031Z AUG 78
FM SECSTATE WASHDC
TO AMEMBASSY TOKYO PRIORITY
INFO AMEMBASSY NEW DELHI PRIORITY
AMEMBASSY QUITO

C O N F I D E N T I A L STATE 196219

EXDIS

E.O. 11652:GDS

TAGN : PLOS, PFOR, JA.

SUBJECT:AMBASSADOR TOGO'S MEETING WITH UNDERSECRETARY NEWSOM,
JULY 31, 1978
NEW DELHI FOR AMBASSADOR RICHARDSON, QUITO FOR GEORGE TAFT

1. SUMMARY: AMBASSADOR TOGO, ACCOMPANIED BY MR. IGUCHI
(DEPUTY DIRECTOR, OCEANIC BUREAU (MOFA) MET WITH UNDER-
SECRETARY NEWSOM ON JULY 31 TO EXPRESS THE GOJ'S CONTINU-
ING CONCERN REGARDING THE NEW REGIME FOR TRANSIT PASSAGE
THROUGH STRAITS USED FOR INTERNATIONAL NAVIGATION WHICH IS
NOW UNDER CONSIDERATION BY THE LOS CONFERENCE. SPECIFICALLY,
THE GOJ DOES NOT WISH TO GRANT THE RIGHT OF OVERFLIGHT
OF THE TSUGARU STRAIT TO AIRCRAFT OF THE USSR, A RIGHT THE
CONFIDENTIAL
CONFIDENTIAL

PAGE 02 STATE 196219

USSR HAS NOT HAD UNDER TRADITIONAL PRACTICE. TOGO ALSO
EXPRESSED SOME CONCERN REGARDING THE POSSIBILITY THAT THE
NEW TRANSIT PASSAGE REGIME MIGHT ALSO GRANT NEW RIGHTS TO
SOVIET SHIPS IN TSUSHIMA STRAIT. TOGO GAVE MR. NEWSOM A
WRITTEN STATEMENT OF THE PROBLEM AS SEEN BY THE GOJ AND THE
TEXT OF AN INTERPRETATIVE STATEMENT THE GOJ IS CONSIDERING
MAKING IF THE NEW REGIME IS ADOPTED AT THE LOS CONFERENCE.
HE ASKED FOR USG UNDERSTANDING AND SUPPORT. FINALLY, TOGO
REFERRED TO THE IMPENDING US-ASEAN MINISTERIAL MEETING IN

WASHINGTON AND EXPRESSED HIS GOVERNMENT'S INTEREST IN THE OUTCOME. END SUMMARY.

2. TOGO OPENED THE MEETING BY NOTING THAT UNDER TRADITIONAL PRACTICE SHIPS OF THE SOVIET UNION HAVE RIGHTS OF TRANSIT PASSAGE THROUGH THE TSUGARU STRAIT BUT THAT SOVIET AIRCRAFT HAVE NOT HAD THE RIGHT OF OVERFLIGHT BECAUSE OF THE NARROWNESS OF TSUGARU. HE SAID THAT THE NEW REGIME FOR NAVIGATION OF INTERNATIONAL STRAITS NOW UNDER CONSIDERATION BY THE LOS CONFERENCE WOULD CAUSE SUBSTANTIAL DIFFICULTIES FOR THE DEFENSE OF THE AREA BECAUSE IT WOULD GRANT THE RIGHT OF OVERFLIGHT OVER GREATER AREAS OF THE STRAIT THUS MAKING POSSIBLE OVERFLIGHTS BY THE SOVIET UNION. HE SAID THAT IT WOULD BE IMPOSSIBLE FOR THE GOJ TO ACCEPT GRANTING THE FREEDOM OF OVERFLIGHT OF TSUGARU TO SOVIET AIRCRAFT. HE SAID THAT GOJ CONCERNS HAD ALREADY BEEN DISCUSSED WITH USG REPRESENTATIVES IN GENEVA, BUT THAT HE WAS UNDER INSTRUCTIONS TO BRING IT TO OUR ATTENTION FOR FURTHER CONSIDERATION. HE SAID THAT THE GOJ REALIZES IT WOULD BE INCONVENIENT OR EVEN INCONCEIVABLE TO ATTEMPT TO RENEGOTIATE THE PERTINENT SECTION OF THE NEW REGIME AT THIS TIME. HE SAID THE GOJ'S NEXT PREFERRED ALTERNATIVE WOULD BE TO ATTACH A RESERVATION TO THEIR ACCEPTANCE OF THE NEW REGIME. IN VIEW OF THE DIFFICULTIES THIS ACTION WOULD CREATE, HE
CONFIDENTIAL
CONFIDENTIAL

PAGE 03 STATE 196219

SAID THE GOJ WAS CONSIDERING MAKING AN "INTERPRETATIVE STATEMENT" WHICH WOULD HAVE THE EFFECT OF RESTRICTING TRANSIT PASSAGE TO WHAT HAD BEEN GRANTED UNDER TRADITIONAL PRACTICE. TOGO THEN GAVE UNDERSECRETARY NEWSOM A CONFIDENTIAL PAPER OUTLINING GOJ CONCERNS AND THE COURSES OF ACTION IT HAS UNDER CONSIDERATION. TEXT OF THIS PAPER FOLLOWS:

3. BEGIN TEXT: THE NEW REGIME OF TRANSIT PASSAGE THROUGH STRAITS USED FOR INTERNATIONAL NAVIGATION BEING CONTEMPLATED IN THE INFORMAL COMPOSITE NEGOTIATIONG TEXT OF THE LAW OF THE SEA WOULD CREATE FOR JAPAN THE SITUATION WHEREIN IT WOULD BECOME POSSIBLE FOR THE ALIEN AIRCRAFT TO FLY THROUGH THE TSUGARU STRAIT WHICH, DUE TO THE INSUFFICIENT BREADTH OF AIR SPACE LEFT BETWEEN THE TERRITORIAL AIR SPACE ABOVE THE TRADITIONAL THREE-MILE TERRITORIAL WATERS, HAS DENIED SUCH OVERFLIGHT, AS WELL AS THE SITUATION WHEREIN, WITH RESPECT TO SUCH STRAITS AS TSUSHIMA, HITHERTO USED FOR TRANSIT OVERFLIGHT, THE ALIEN AIRCRAFT WOULD BE ABLE TO PENETRATE OR FLY THROUGH THE THREE-MILE AIRSPACE FROM THE LAND. SUCH SITUATIONS WOULD NOT BE ACCEPTABLE TO JAPAN BOTH IN TERMS OF ITS OWN SECURITY AND PUBLIC SENTIMENTS. THEREFORE, THE LEGAL BASIS SHOULD BE SECURED TO EXCLUDE SUCH SITUATIONS UNDER THE NEW REGIME OF THE INTERNATIONAL STRAITS. AND, AS THE PURPORT OF SECTION 2 OF PART III OF THE IN-

FORMAL COMPOSITE NEGOTIATING TEXT OF THE LAW OF THE SEA
HAS BEEN TO KEEP INTACT THE PASSAGE IN A MANNER TRADITION-
ALLY CONDUCTED THROUGH SUCH STRAITS AS WOULD OTHERWISE BE

COVERED WITH THE TERRITORIAL SEA WITH THE ADOPTION OF 12
MILE TERRITORIAL SEA, WE BELIEVE IT IS POSSIBLE TO SECURE
SUCH LEGAL BASIS.

IN THIS CONNECTION, THE JAPANESE GOVERNMENT IS CONSIDERING
THE FOLLOWING STEPS.

CONFIDENTIAL
CONFIDENTIAL

PAGE 04 STATE 196219

A. IN ORDER TO ESTABLISH THE INTERPRETATION OF SECTION 2
OF PART III OF THE INFORMAL COMPOSITE NEGOTIATING TEXT OF
THE LAW OF THE SEA THAT THE RIGHT OF TRANSIT PASSAGE
THEREUNDER SHALL BE ENJOYED BY SHIPS OR BY AIRCRAFT ONLY
IN THE WATERS OR IN THE AIR SPACE WHERE THE FREEDOM OF
INTERNATIONAL NAVIGATION OR OVERFLIGHT HAS BEEN TRADITION-
ALLY EXERCISED, JAPAN WOULD LIKE TO CONSIDER ISSUING AN
INTERPRETATIVE STATEMENT WITH OTHER COUNTRIES OF SIMILAR
CONCERN. A DRAFT IS ATTACHED.

B. WE WILL CONSIDER SUPPORTING THE AMENDMENTS PROPOSED BY
GREECE, MOROCCO AND OTHERS ON ARTICLE 39, 3(A) AND ARTICLE,
8 AND ARTICLE 42, L(A) SO AS TO MAKE IT EXPLICIT THAT
THE COUNTRIES BOARDING STRAITS WOULD BE ABLE TO DESIGNATE
THE FLIGHT ROUTES FOR AIRCRAFT INCLUDING THE MILITARY AIR-
CRAFT. END TEXT.

4. TOGO ALSO PROVIDED A DRAFT "INTERPRETATIVE STATEMENT"
TEXT OF WHICH FOLLOWS:

5. BEGIN TEXT: INTERPRETATIVE STATEMENT CONCERNING THE
RIGHT OF TRANSIT PASSAGE THROUGH STRAITS USED FOR INTER-
NATIONAL NAVIGATION (DRAFT).

THE REGIME OF TRANSIT PASSAGE THROUGH STRAITS USED FOR
INTERNATIONAL NAVIGATION WAS CONCEIVED IN THE COURSE OF THE
THIRD LAW OF THE SEA CONFERENCE IN ORDER TO MEET THE NEW
CIRCUMSTANCES WHERE MOST OF THE IMPORTANT STRAITS OF THE
WORLD WHICH HAVE BEEN TRADITIONALLY USED FOR INTERNATIONAL
NAVIGATION ARE LIKELY TO BE COVERED WITH THE TERRITORIAL
SEA AS A RESULT OF ADOPTION BY THE STATES BORDERING
STRAITS OF 12 MILE TERRITORIAL SEA, THUS INCREASING THE
DANGER OF UNILATERAL INTERFERENCE WITH THE PASSAGE FOR
CONFIDENTIAL
CONFIDENTIAL

PAGE 05 STATE 196219

INTERNATIONAL NAVIGATION BY THE BORDERING STATES. THE BASIC PURPORT OF THE REGIME, THEREFORE, IS TO KEEP INTACT THE PASSAGE THROUGH SUCH STRAITS AS IT HAS BEEN TRADITIONALLY CONDUCTED.

IN VIEW OF THIS BASIC PURPORT OF THE REGIME, IT IS UNDERSTOOD THAT THE RIGHT OF TRANSIT PASSAGE IN ACCORDANCE WITH

SECTION 2 OF PART III (STRAITS USED FOR INTERNATIONAL INTERNATIONAL NAVIGATION) SHALL BE ENJOYED BY SHIPS OR BY AIRCRAFT ONLY IN THE WATERS OR IN THE AIR SPACE WHERE THE FREEDOM OF INTERNATIONAL NAVIGATION OR OVERFLIGHT, AS THE CASE MAY BE, HAS BEEN TRADITIONALLY EXERCISED. END TEXT.

6. UNDERSECRETARY NEWSOM RECALLED THAT THE NEGOTIATION OF THE STRAITS ARTICLE HAS BEEN A VERY INVOLVED PROCESS AND NOTED THAT IT IS ONE OF THE RELATIVELY FEW SUCCESSES TO DATE IN THE LOS CONFERENCE. HE POINTED OUT THAT THE USG HAD WORKED CLOSELY WITH THE GOJ DURING NEGOTIATION OF THE STRAITS ARTICLE BECAUSE OF OUR SHARED INTEREST IN OTHER STRAITS AREAS, PARTICULARLY THE STRAIT OF MALACCA. HE SAID THAT THE NEW REGIME HAS BEEN WORKED OUT TO COVER AIRCRAFT OVERFLIGHTS BECAUSE WE AND OTHERS HAVE SEEN THIS AS BEING ADVANTAGEOUS AND AGAIN REFERRED TO MALACCA AND GIBRALTAR IN THIS REGARD. HE SAID THAT THE ESTABLISHMENT OF A PATTERN TO PERMIT THE CLOSING OF STRAITS TO AIRCRAFT OVERFLIGHTS WOULD CAUSE US PROBLEMS IN OTHER AREAS AND THAT FOR THESE REASONS IT WOULD BE DIFFICULT IF NOT IMPOSSIBLE TO CONSIDER RENEGOTIATING THIS AT THIS TIME.

7. MR. IGUCHI SAID THAT GOJ CONCERNS HAD BEEN RAISED THREE TIMES WITH US REPS BY THE JAPANESE HEAD OF DELEGATION IN GENEVA. HE SAID THAT ON THOSE OCCASIONS AMBASSADOR RICHARDSON HAD FELT THAT AN INTERPRETIVE STATEMENT BY THE GOJ MIGHT BE THE PREFERABLE COURSE BUT THAT HE HAD RESERVED HIS POSITION ON THIS. HE SAID THAT THE PROBLEM WAS ALSO
CONFIDENTIAL
CONFIDENTIAL

PAGE 06 STATE 196219

RAISED WITH US REPS DURING THE FIVE-POWER CONSULTATIONS IN TOKYO IN 1975, AND AGAIN IN MARCH 1977 IN TALKS WITH AMBASSADOR RICHARDSON IN TOKYO. HE SAID THIS WAS A MATTER OF VITAL CONCERN TO JAPAN AND THAT THE GOJ HOPES THE USG WILL TAKE A SYMPATHETIC VIEW OF THESE JAPANESE CONCERNS.

8. TOGO CONCLUDED HIS PRESENTATION BY SAYING THAT IF AS A RESULT OF THE NEW REGIME THE SOVIET UNION GAINS FREE OVERFLIGHT PASSAGE IN TSUGARU AND EXPANDED SEA PASSAGE IN TSUSHIMA STRAIT, THE GOJ WOULD BE PLACED IN AN IMPOSSIBLE POSITION BECAUSE THE DIET WOULD NOT APPROVE THE NEW REGIME. WITH RESPECT TO TSUSHIMA, TOGO STRESSED THAT THE GOJ DOES NOT OBJECT TO CONTINUED SOVIET OVERFLIGHT RIGHTS BUT TO

ANY BROADENING OF RIGHTS FOR TRANSIT PASSAGE FOR SHIPS. HE SAID THAT HIS INSTRUCTIONS WERE TO BRING THE MATTER TO US FOR OUR FURTHER CONSIDERATION PRIOR TO THE OPENING OF THE LOS CONFERENCE IN NEW YORK IN AUGUST.

9. UNDERSECRETARY NEWSOM TOLD TOGO THAT HE WOULD BRING TO THE ATTENTION OF SECRETARY VANCE AND AMBASSADOR RICHARDSON THE CONTINUING CONCERN OF THE GOJ. HE SAID THAT

AMBASSADOR RICHARDSON WOULD BE PREPARED TO CONTINUE DISCUSSION OF THIS MATTER WITH THE GOJ REPRESENTATIVES AT THE LOS CONFERENCE IN NEW YORK.

10. IN LEAVING, TOGO REFERRED TO THE US-ASEAN MINISTERIAL MEETINGS TO BE HELD IN WASHINGTON ON AUGUST 3-4. HE SAID THAT TOKYO IS KEENLY INTERESTED IN THESE TALKS AND HOPES FOR THEIR SUCCESS. HE SAID THAT THE GOJ UNDERSTANDS THAT THE US IS NOT IN A POSITION TO GRANT NEW BENEFITS TO THE ASEAN COUNTRIES, BUT IT HOPES THE DISCUSSIONS WILL BE HANDLED IN SUCH A WAY AS NOT TO DISCOURAGE THEM. UNDER-
CONFIDENTIAL
CONFIDENTIAL

PAGE 07 STATE 196219

SECRETARY SAID THAT WE WOULD DO OUR BEST. HE INDICATED OUR EXPECTATION THAT CERTAIN NORTH-SOUTH ISSUES WILL BE DISCUSSED AND THAT OUR POSITION ON THE COMMON FUND IS BEING KEPT UNDER CONTINUING REVIEW. HE SAID FURTHER THAT A GOOD PROGRAM HAS BEEN ARRANGED FOR THE ASEAN REPRESENTATIVES INCLUDING MEETINGS WITH THE PRESIDENT, THE VICE PRESIDENT, SECRETARY VANCE, SECRETARY BLUMENTHAL AND SECRETARY KREPS. VANCE

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: Z
Capture Date: 26 sep 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INNOCENT PASSAGE, DIPLOMATIC DISCUSSIONS, STRAITS, AIRCRAFT OVERFLIGHTS
Control Number: n/a
Copy: SINGLE
Draft Date: 03 aug 1978
Decaption Date: 20 Mar 2014
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE196219
Document Source: ADS
Document Unique ID: 00
Drafter: EA/J:RNKILPATRICK,ACTING
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Expiration:
Film Number: D780319-0366
Format: TEL
From: STATE
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197808122/baaaaezlb.tel
Line Count: 253
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Message ID: 8fd0f759-c288-dd11-92da-001cc4696bcc
Office: ORIGIN SS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: EXDIS
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1587708
Secure: OPEN
Status: NATIVE
Subject: AMBASSADOR TOGO'S MEETING WITH UNDERSECRETARY NEWSOM, JULY 31, 1978 NEW DELHI FOR AMBASSADOR RICHARDSON, QUITO FOR GEORGE TAFT
TAGS: PLOS, PFOR, PEPR, EWWT, US, JA, UR, LOS, (NEWSOM, DAVID), (TOGO)
To: TOKYO INFO NEW DELHI MULTIPLE
Type: TE
vdkgvkey: odbc://SAS/SAS.dbo.SAS_Docs/8fd0f759-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014